

**ENTERED**

June 29, 2018

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION

RICHARD N TAWE, §  
Plaintiff, §  
VS. § CIVIL ACTION NO. 2:16-CV-76  
§  
MARKESE K REO, *et al*, §  
Defendants. §

**OPINION AND ORDER DENYING MOTION FOR TRANSCRIPT**

Plaintiff's motion for a transcript (D.E. 63) is denied without prejudice. Final Judgment was entered in this case on February 27, 2018. Plaintiff did not timely file an appeal, and there is no jurisdiction to do so now. FED. R. APP. P. 4; *Bowles v. Russell*, 551 U.S. 205, 213 (2007).

Moreover, Plaintiff has not stated an adequate reason why he should receive a free copy of the transcript. Fees for transcripts furnished to persons permitted to appeal in forma pauperis shall be paid by the United States if the trial judge or a circuit judge certifies that the appeal is not frivolous (but presents a substantial question). 28 U.S.C. § 753(f). Payment by the United States for printing of the record on appeal and transcripts may also be ordered if the record or transcript is required by the appellate court. 28 U.S.C. § 1915(c) (emphasis added); *Harvey v. Andrist*, 754 F.2d 569, 571 (5th Cir.), *cert. denied*, 471 U.S. 1126 (1985). Plaintiff has not demonstrated that he is entitled to a free transcript under either of these standards.

Finally, Plaintiff has not stated the issues he intends to raise in a motion for relief from judgment. His motion for relief from judgment cannot serve as a substitute for an appeal. *Hess v. Cockrell*, 281 F.3d 212, 216 (5th Cir. 2002). Plaintiff is not entitled to a free transcript, even if he is indigent, for a "fishing expedition." *U.S. v. Herrera*, 474 F.2d 1049 (5th Cir. 1973). Plaintiff was present at the hearings, and he should have maintained notes from the hearings.

The transcripts have been prepared and Plaintiff may purchase a copy of the transcript for \$0.10 per page. His motion (D.E. 63) is denied.

ORDERED this 29th day of June, 2018.

  
B. JANICE ELLINGTON  
UNITED STATES MAGISTRATE JUDGE